APPENDIX

STATUTES INVOLVED

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APPENDIX

The pertinent portions of the Act of 12 July 1960, P.L. 86-616, 74 Stat. 395 follows:

"Sec. 10. (a) Not more than once in each fiscal year, the Secretary of the Army and the Secretary of the Air Force may convene one or more boards, each consisting of at least five officers of the Regular Army or the Regular Air Force, as the case may be, in a grade above colonel, to review the records of, and recommend for continuation on the active list, officers of that component on the active list in the regular grade of colonel or lieutenant colonel who have at least 20 years of service computed under section 3927(a) or 8927(a) of title 10, United States Code, whichever applies, and who have been considered more than twice but not recommended for promotion to the next higher regular grade.

"(b) A Board convened under this section shall recommend officers for continuation on the active list in the number specified by the Secretary. The Secretary may specify separate numbers for particular categories of officers. However, except with respect to the first board convened under this section in the Army and in the Air Force, the number specified by him for officers in any category must be at least 80 per cent of the officers in that category being considered. An officer may be considered for contination on the active list under this section only once while serving in the regular grade of colonel and only once while serving in the regular grade of lieutenant colonel.

"(c) Except as provided in section 1 of the Act of April 23, 1930, ch. 209, as amended (5 U.S.C. 47a), if the Secretary approves the report of a board, he shall, not later than the first day of the seventh cal-

endar month beginning after he approves the report, retire each officer who is considered but not recommended for continuation.

"(d) A member of the Army or the Air Force who is retired under this section is entitled to retired pay computed under formula A of section 3991 or 8991, respectively, of title 10."

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Section 1201, Title 10, United States Code:

§ 1201. REGULARS AND MEMBERS ON ACTIVE DUTY FOR MORE THAN 30 DAYS: RETIREMENT

Upon a determination by the Secretary concerned that a member of a regular component of the armed forces entitled to basic pay, or any other member of the armed forces entitled to basic pay who has been called or ordered to active duty (other than for training under section 270 (b) of this title) for a period of more than 30 days, is unfit to perform the duties of his office, grade, rank, or rating because of physical disability incurred while entitled to basic pay, the Secretary may retire the member, with retired pay computed under section 1401 of this title, if the Secretary also determines that—

(1) based upon accepted medical principles, the disability is of a permanent nature;

(2) the disability is not the result of the member's intentional misconduct or willful neglect, and was not incurred during a period of unauthorized absence; and

(3) either—

(A) the member has at least 20 years of service computed under section 1208 of this title; or

(B) the disability is at least 30 percent under the standard schedule of rating disabilities in use by the Vet-

erans' Administration at the time of the determination; and either—

(i) the member has at least eight years of service computed under section 1208 of this title;

(ii) the disability is the proximate result of performing active duty; or

(iii) the disability was incurred in line of duty in time of war or national emergency. Aug. 10, 1956, c. 1041, 70A Stat. 91; amended Sept. 2, 1958, Pub.L. 85-861, § 1(28) (A), 72 Stat. 1451; Sept. 7, 1962, Pub.L. 87-651, Title I, § 107(a), 76 Stat. 508.

Section 8284, Title 10, United States Code:

§ 8284. Commissioned officers: appointment, how made.

Appointments in commissioned grades in the Regular Air Force shall be made by the President, by and with the advice and consent of the Senate. Aug. 10, 1956, c. 1041, 70A Stat. 507.

The pertinent portion of Section 8916, Title 10, United States Code follows:

§ 8916. Twenty-eight years: promotion-list lieutenant colonels

(a) Unless retired or separated at an earlier date, each promotion-list officer in the regular grade of lieutenant colonel shall be retired, except as provided by section 47a of title 5, on the thirtieth day after he completes 28 years of service computed under section 8927(a) of this title. However, if his name is carried on the list of officers recommended for appointment to the regular grade of colonel, he shall be retained on the active list while his name is so carried.

* * * *

Constitution of the United States, Amendment V.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.